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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,274	09/01/2000	Yoshinori Miyajima	32930	5858
116	7590	01/12/2005	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			APPIAH, CHARLES NANA	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/654,274

Applicant(s)

MIYAJIMA ET AL.

Examiner

Charles Appiah

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-22 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 7-28 is/are allowed.
- 6) ☒ Claim(s) 3-6 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 January 2005 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 4, 5/3, 5/4, 6/6, 29, 30, 31/29 and 31/30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pecan (6,603,825) in view of Kim et al. (5,710,981).

Regarding claims 3, 4, 29 and 30 Pecan discloses a radio for receiving a signal having a signal format that is transmitted while changing transmission conditions into two types or more, comprising: a gain controlling means for controlling a gain of the receiver (see col. 3, lines 34-47), an electric field intensity detecting means for detecting an electric field intensity of a received signal (see col. 3, line 63 to col. 4, line 5), a first

controlling means for causing the gain controlling means when the electric field intensity detected by the electric field intensity detecting means reaches the threshold of the electric field intensity level (see col. 4, lines 12-37). Pecan fails to explicitly teach a threshold setting means for automatically setting a threshold of an electric field intensity level based on the transmission condition of the received signal, wherein the threshold level is varied depending on the transmission condition.

In an analogous filed of endeavor, Kim discloses a method for controlling transmission power based on an estimate of the signal strength and quality of a downlink signal transmitted and received at a portable radio which includes a threshold adjustment parameter for the received signal, wherein the threshold adjustment parameter corresponds to the signal strength and signal quality of the received signal (see col. 2, lines 40-65, col. 3, lines 1-53 and col. 8, lines 34-65).

It would therefore have been obvious to one of ordinary skill in the art to incorporate Kim's threshold adjustment capability into Pecan's automatic gain control system in order to ensure to ensure appropriate power control based solely on received signal strength indication as taught by Kim.

Regarding claims 5/3, 5/4, 6/3 and 6/4, Pecan further discloses wherein the gain controlling means is a step-wise gain control type which changes the gain by a predetermined amount when a signal level of the received signal exceeds a predetermined level (see col. 4, lines 12-49), and the gain control means is a continuous gain control type which changes the gain in response to a signal level of the received signal (col. 7, lines 7-44).

Regarding claim 29/31 and 30/31 Pecan's teaching of the use processors, or controllers implemented using a DSP, a microprocessor, a micro controller, a PLU, logic circuitry or a combination thereof (see col. 3, lines 23-34), meets the computer-readable recording medium for storing a program which causes a computer to execute a radio receiving method.

Allowable Subject Matter

4. Claims 1, 1/5, 1/6, 7-22, 24-28, 31/17, 31/18, 31/19, 31/24 and 31/25 are allowed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bonnerot et al. (4,777,653) discloses an apparatus for controlling transmission power over a digital radio channel.

Honkasalo et al. 95,331,638) discloses a system for automatic gain control in a TDMA radiotelephone system.

Saints et al. (6,075,974) discloses a method and apparatus for adjusting threshold and measurements of received signals.

Dohi et al. (6,341,224) discloses a power control system with dynamic interference threshold based on error rate measurement.

Response to Arguments

6. Applicant's arguments with respect to claims 3-6, and 29-31 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 703 305-4772. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA


CHARLES APPIAH
PRIMARY EXAMINER